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| 34206 | 7590 | 11/18/2004 | EXAMINER | |
| FOGG AND ASSOCIATES, LLC | | | COULTER, KENNETH R | |
| P.O. BOX 581339 | | | ART UNIT | |
| MINNEAPOLIS, MN 55458-1339 | | | PAPER NUMBER | |

2141

DATE MAILED: 11/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/598,642

Applicant(s)

HARRIS ET AL.

Examiner

Kenneth R Coulter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-46 and 48-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28 is/are allowed.
- 6) ☒ Claim(s) 1-16, 19-22, 29, 31-36, 38-41, 43-46 and 48-69 is/are rejected.
- 7) ☒ Claim(s) 17, 23, 30, 37 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 16, 19 – 22, 32 – 36, 38 – 41, and 48 – 69 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Sato et al. (U.S. Pat. No. 6,249,324) (Transmission Processing Apparatus, Television Conference System, Transmission Processing Method and Memory Medium).

2.1 Regarding claim 1, Sato discloses an apparatus for dynamically controlling the delivery of data over a network, the apparatus comprising:

a network interface circuit with at least one communication port adapted to be coupled to a network (Fig. 1; Abstract);

an encoder, communicatively coupled to the network interface circuit, the encoder adapted to receive data from a source and to encode the data with a selectable level of compression (Fig. 1, item 18; col. 3, lines 45 – 50);

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wherein the network interface circuit includes a control mechanism that provides a signal to select the level of compression for the encoder based on at least one parameter (Fig. 1, items 26, 18; col. 3, lines 45 - 63);

wherein the network interface circuit is coupled to a plurality of communication sources (Fig. 1; Abstract; col. 3, lines 35 - 42).

2.2 Per claims 2 – 5, Sato teaches the particulars involving the encoder adapted to receive data from at least one of a video source, and an audio source (Fig. 1; col. 4, lines 1 - 8); the network interface circuit is adapted to receive at least one of high-speed data and telephony data (Fig. 1); an encoder that is adapted to receive input from a plurality of data sources (Fig. 1; col. 3, lines 35 - 42); the network interface circuit comprises an inverse multiplexer with a plurality of network ports, each network port adapted to be coupled to a selected communication link of the network (Fig. 1, item 12).

2.3 Regarding claim 6, Sato discloses that each port is adapted to be coupled to at least one of a T1 and an E1 communication link (col. 6, lines 50 – 59).

2.4 Per claim 7, Sato teaches a bus, communicatively coupling the network interface circuit and the encoder, the bus being adapted to carry commands from the control mechanism of the network interface circuit to the encoder (Fig. 1, items 26, 18).

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2.5 Regarding claim 8, Sato discloses that the control mechanism generates signals to control the rate of the encoder based on at least one of available bandwidth, buffer levels, network congestion, cell loss and signals over an end-to-end channel of the network (Fig. 1, items 26, 18; col. 3, lines 44 - 63).

2.6 Per claims 9 – 12, Sato teaches that the control mechanism adjusts data rates for a plurality of sources (Fig. 1, items 26, 24, 18; Abstract); adjusts the data rate of the encoder to control the level of compression (Fig. 1, items 24, 18; Abstract); and adjusts other parameters of the encoder (Fig. 5, item S33).

2.7 Regarding claims 13 - 16, 19 – 22, 32 – 36, 38 - 41, and 48 – 69, the rejection of claims 1 – 12 (paragraphs 2.1 – 2.6 above) applies fully.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 29, 31, and 43 - 46 rejected under 35 U.S.C. 102(b) as being anticipated by Chaddha et al. (U.S. Pat. No. 5,621,660) (Software-Based Encoder for a Software-Implemented End-to-End Scalable Video Delivery System).

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4.1 Regarding claim 29, Chaddha discloses a method for controlling delivery of video over an ATM network, the method comprising:

monitoring a plurality of connections to the ATM network used to transmit video data from at least one source (col. 1, line 17 “a library of video sources”; col. 2, lines 10 – 11 “scalable compression would be beneficial, especially for browsing in multimedia video sources”);

when synchronizing the plurality of connections to the ATM network:

calculating an available bandwidth for delivering the video data (col. 12, line 66 – col. 13, line 10 “the present invention uses a **video data rate** ... depending on the ... **network bandwidth available.**”); and

establishing a data rate for a video encoder used to deliver the video data based on the available bandwidth (col. 12, line 66 – col. 13, line 10).

4.2 Per claim 31, Chaddha teaches calculating the available bandwidth comprises:

determining physical bandwidth (col. 12, line 66 – col. 13, line 10); and

adjusting bandwidth for sources not processed by the video encoder (col. 12, line 66 – col. 13, line 10).

4.3 Regarding claims 43 – 46, the rejection of claims 29 and 31 (paragraphs 4.1 and 4.2) applies fully.

In addition, Chaddha discloses

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monitoring a non-congestion or non-cell loss based condition (delayed packets)
(col. 11, lines 3 - 8);

when the non-congestion or non-cell loss based condition exceeds a threshold,
adjusting the level of encoding to respond to the changed condition (col. 11, lines 3 - 8).

Response to Arguments

5. Applicant's arguments with respect to claims 1 – 16, 19 – 22, 29, 31 – 36, 38 – 41, 43 – 46, and 48 - 69 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

6. Claims 24 – 28 are allowed.

7. Claim 17, 23, 30, 37, and 42 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

claim 24 discloses when **at least one of the plurality of communication lines becomes unusable**, modifying the encoding level to encode with a second, different rate.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 571 272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

krc

KENNETH R. COULTER
PRIMARY EXAMINER

